

REMARKS

Claims 1-20, 22, 24, 26-48, 50, 52, 54-76, 78, 80, and 82 were pending as of the action mailed on July 24, 2008. Reconsideration of the action is respectfully requested in light of the foregoing amendments and the following remarks. This reply is being filed with a Request for Continued Examination.

The examiner rejected claims 1-15, 18-20, 22, 24, 26, 29-43, 46-48, 50, 52, 54, 57-71, 74-76, 78, and 80 under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 6,151,643 ("Cheng"). The examiner rejected claims 16-17, 28, 44-45, 56, 72-73, and 82 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cheng in view of U.S. Patent No. 6,904,592 ("Johnson"). The examiner rejected claims 27 and 55 under 35 U.S.C. § 103(a) as being unpatentable over Cheng in view of Applicant Admitted Prior Art ("AAPA").

Section 102 Rejections

Claim 1

Claim 1 recites receiving update information from a stateless update server where the update server does not receive or evaluate information about the client environment, does not make decisions regarding the update process on the client environment, and does not control or monitor the update process on the client environment.

On page 4 of the Office Action mailed July 24, 2008, the examiner rejects this feature of claim 1 citing Cheng, FIG. 1, element 102 and col. 13, lines 48-57. Element 102 of FIG. 1 shows a "service provider computer system" and the cited text reads as follows:

In the preferred embodiment, the analysis 204 is preferably performed by the client application 104 on the client computer 101. This reduces the network bandwidth required, and the potentially unreliability of non-stateless remote procedure call implementations by having the service provider 102 perform the analysis. It further increases the number of simultaneous users of the service provider computer 102. The analyze process is performed by the system analyzer 907 module of the client application 104.

The cited portion of Cheng teaches an analysis performed by the client application on the client computer. The applicant notes that that while the examiner has emphasized the reference to non-stateless remote procedure calls as indicating the service provider computer is a stateless

server. The applicant respectfully submits that this is not pertinent to the recited claim feature. A server being stateless does not mean the server does not interact with the client. Instead, a server being stateless refers to a server that does not retain information about prior transactions with the client. It does not mean that there are no transactions between server and client nor does it indicate the type of information passed between the two.

Returning to the portion cited by the examiner, the client analysis referred to in the cited portion is of software products installed on the client computer. *See* col. 13, lines 46-47. Thus, the client determines what software is installed on the client. This is the extent of the disclosure cited by the examiner and does not relate to the interaction with the server to perform an update of installed software. However, Change goes on to describes using the list of installed software identified as a result of the client analysis to “query the service provider computer to determine for which of these products there is an applicable update” (Cheng, col. 14, lines 41-44).

Thus, as Cheng continues in col. 14, once a list of software products installed on the client are determined, a query is sent to the service provider computer (server) to identify updates to the installed software. *See* col. 14, lines 38-44. In particular, the client sends a list of currently installed software to the service provider computer. The service provider computer then “determines if there is an applicable update for a software product by comparing the product name 815 and release information 818 to the product table 805” (col. 14, lines 52-54). If the service provider computer determines that an update is available, an identifier (e.g., an update ID) is returned to the client. *See* col. 14, lines 55-60. If there is no newer version, the service provider computer checks the next software item for updates. *See* col. 14, lines 60-64.

Therefore, the service provider computer clearly receives information from the client computer regarding the software identified by the client computer. The service provider computer then compares this information against the current products to identify whether updates are available. Thus, the service provider computer requires client software information in order to determine whether an update is available. Claim 1, however, requires that the server does not receive or evaluate information about the client environment. The software installed on the client is client information received by Cheng's service provider computer. Therefore, Cheng's update process does not satisfy the requirements of claim 1.

Consequently, Cheng does not disclose or suggest an update server that does not receive or evaluate information about the client environment, does not make decisions regarding the update process on the client environment, and does not control or monitor the update process on the client environment, as recited in claim 1. Moreover, Cheng discloses a server that contradicts the features recited in claim 1 by explicitly sending client information to a server as part of an update process. Therefore, the applicant respectfully submits that the examiner has not provided art rejecting each limitation recited in claim 1. Thus, the applicant submits that claim 1 is in condition for allowance.

Claims 29 and 57

Claims 29 and 57 include features corresponding to those of claim 1 and were rejected for the same reasons. Therefore, claims 29 and 57 are allowable for at least the reasons set forth above with respect to claim 1.

Remaining Claims

The remaining claims depend from independent claims 1, 29, and 57, and are allowable for at least the reasons that apply to those independent claims.

Withdrawal of the rejection under 35 U.S.C. § 102(b), is therefore respectfully requested.

Section 103 Rejections

Claims 28, 56, and 82

Claims 28, 56, and 82 recite a stateless server which does not receive or evaluate information about the client environment, does not make decisions regarding the update process on the client environment, and does not control or monitor the update process on the client environment. The applicant respectfully submits that the combined teachings of Cheng and Johnson do not teach or describe this feature as noted above with respect to the rejection under 35 U.S.C. § 102(b). Additionally, the combined teachings of Cheng, Johnson, and AAPA do not teach or suggest this feature, and thus the applicant submits that claims 28, 56 and 82 are in condition for allowance.

Remaining Claims

Claims 16, 17, and 27 depend from independent claim 1, claims 44, 45, and 55 depend from independent claim 29, and claims 72 and 73 depend from independent claim 57. Claims 16, 17, 27, 44, 45, 55, 72, and 73 are allowable for at least the reasons that apply to the independent claims from which they depend.

Withdrawal of the rejection under 35 U.S.C. § 103(a) is therefore respectfully requested.

Conclusion

For the foregoing reasons, the applicant submits that all the claims are in condition for allowance.

By responding in the foregoing remarks only to particular positions taken by the examiner, the applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, the applicant's selecting some particular arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist. Finally, the applicant's decision to amend or cancel any claim should not be understood as implying that the applicant agrees with any positions taken by the examiner with respect to that claim or other claims.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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